

# THE CORPORATION OF THE TOWN OF MIDLAND

## BY-LAW 2013-13

A By-law to establish a Site Plan Control Area and to repeal By-law 2005-8

**WHEREAS** Section 41 of the *Planning Act*, R.S.O. 1990, as amended, permits the Council of a municipality where there is an Official Plan in effect, to designate by By-law, the whole or any part of the area covered by the Official Plan as a Site Plan Control Area;

**AND WHEREAS** Council deems it desirable to designate all of the lands located within the geographic limits of the Town of Midland, as identified herein, as a Site Plan Control Area.

**NOW THEREFORE THE COUNCIL OF THE CORPORATION OF THE TOWN OF MIDLAND HEREBY ENACTS AS FOLLOWS:**

1. For the purposes of this By-law:
  - a) "Council" means the Council of the Corporation of the Town of Midland.
  - b) "Town" means The Corporation of the Town of Midland.
  - c) "Development" means:
    - i) the construction, erection or placing of one or more buildings or structures on land; or,
    - ii) the making of an addition or alteration to a building or structure that has the effect of substantially increasing the size or usability thereof; or,
    - iii) the laying out and establishment of a commercial parking lot, or of sites for the location of three or more trailers as defined in clause of paragraph 101 of Section 210 of the *Municipal Act* R.S.O.1990, c.M.45 or of sites for the location of three or more mobile homes as defined in clause 46(1) of the *Planning Act*; or,
    - iv) the laying out and establishment of commercial outdoor recreational facilities including golf courses, driving ranges, sports fields and the like.
  - d) "Gross Floor Area" means the aggregate of the areas of each floor above grade, except in the case of an apartment building where part of a basement is used for habitable purposes, in which case such area shall constitute part of the gross floor area, measured between the exterior faces of exterior walls of the building or structures at the level of each floor.
  - (e) "Owner" means any owner of land as identified in the records of the proper Land Registry Office or Land Titles Office and includes a purchaser under a valid Agreement of Purchase and Sale, and the authorized agent of any such purchaser or owner of land.
  - (f) "Redevelopment" means the removal of buildings or structures from land and the construction or erection of other buildings or structures thereon and "Redevelop" has a corresponding meaning.

- (g) "Site Plan" means those plans and/or drawings as contemplated by subsection 41(4) of the *Planning Act*, R.S.O. 1990, c.P.13., as amended.
2. That the provisions of this By-law shall apply to specific lands located within the geographic limits of the Corporation of the Town of Midland and as identified by land use categories of the Town of Midland Zoning By-law 2004-90, as amended, as set out in Section 4 of this By-law.
  3. Those lands identified in Section 4 of this By-law are hereby designated as a Site Plan Control Area, pursuant to Section 41 as enacted by the *Planning Act*, R.S.O. 1990.
  4. That the provisions of this By-law shall apply to development in the following zones as established in By-law 2004-90, as amended, of the Town, passed under Section 34 of the *Planning Act*, R.S.O. 1990, as listed hereunder:
    - a) RESIDENTIAL TOWNHOUSE ZONE – RT
    - b) RESIDENTIAL APARTMENT ZONE – RA
    - c) RESIDENTIAL MOBILE HOME ZONE – RM
    - d) RESIDENTIAL OFFICE ZONE – RO
    - e) DOWNTOWN CORE COMMERCIAL ZONE - DC-F2
    - f) HIGHWAY COMMERCIAL ZONE – HC
    - g) NEIGHBOURHOOD COMMERCIAL ZONE – NC
    - h) MARINE COMMERCIAL ZONE – MC
    - i) INDUSTRIAL ZONE - M1
    - j) INDUSTRIAL ZONE - M2
    - k) INSTITUTIONAL ZONE – I
    - l) OPEN SPACE ZONE – OS
    - m) RURAL ZONE – RU (Permitted commercial/industrial/institutional uses only)
    - n) ENVIRONMENTAL PROTECTION ZONE – EP
  5. That no person shall undertake any development in the areas identified in Section 4 hereof and designated as a Site Plan Control Area by Section 3 unless and until the Council of the Corporation of the Town of Midland, or the Ontario Municipal Board on appeal, has approved the plans and/or drawings for such development in accordance with Section 41 of the *Planning Act*.
  6. Notwithstanding Section 5 above, the following types of Development may be undertaken without the approvals referred to in Section 7 of this By-law:
    - (a) Buildings or structures used for agricultural or farming operations.
    - (b) Accessory buildings or structures not exceeding a total gross floor area of 50 square metres provided that the number of required parking spaces is not increased by more than 10% relative to the amount of parking currently provided on the lands.
    - (c) Tents, marquees and similar temporary structures to be erected for a temporary period not exceeding four (4) weeks.

- (d) Buildings or structures, and additions or alterations to buildings and structures, used for the purpose of enclosing mechanical equipment, staircases, passageways, entrances, porches, verandahs and similar structures.
  - (e) Addition or alteration to an existing building or structure provided that:
    - (i) the improvement or modification is contained wholly within the existing building or structure;
    - (ii) the expansion of an existing building or structure is less than ten percent (10%) in Gross Floor Area. Only one (1) expansion of less than 10% shall be permitted under this provision in any five (5) year period;
    - (iii) the number of required parking spaces is not increased by more than 10% relative to the amount of parking currently provided on the lands; and
    - (iv) the total area of open space on a lot which is used exclusively for landscaping is not decreased by more than 10%.
  - (f) Buildings or structures destroyed or damaged by fire, explosion or flood or other similar cause, provided that:
    - (i) the reconstructed building or structure is used for the same purpose as the former building or structure;
    - (ii) the gross floor area and height of the reconstructed building or structure generally does not exceed those of the former building or structure; and
    - (iii) the reconstructed building or structure is not located closer to any lot line than the former building or structure.
  - (g) Industrial equipment, machinery or storage tanks necessary for the operation of the industrial use:
    - (i) that are not located closer than 6.0 metres to any lot line; and
    - (ii) that are located a minimum of 15.0 metres from any lot line of any lot zoned or used for residential purposes; and
    - (iii) where the height does not exceed 9.0 metres.
7. No person shall undertake any development on land designated as a Site Plan Control Area described in Section 4, unless the Town or, where a referral has been made, the Ontario Municipal Board, has approved one or both as the Town may determine, of the following:
- a) Plans showing the location of all buildings and structures to be erected and

showing the location of all facilities and works to be provided in conjunction therewith and of all facilities and works required under Section 8 to the By-law, including facilities designed to have regard for accessibility for persons with disabilities.

- b) Drawings showing plan, elevation and cross-section views for each building to be erected which are sufficient to display:
  - i) the massing and conceptual design of the proposed building;
  - ii) the relationship of the proposed building to adjacent buildings, streets, and exterior areas to which members of the public have access;
  - iii) the provision of interior walkways, stairs, elevators and escalators to which members of the public have access from streets, open spaces and interior walkways in adjacent buildings;
  - iv) matters relating to exterior design, including without limitation the character, scale, appearance and design features of buildings, and their sustainable design, but only to the extent that it is a matter of exterior design, if an official plan and a by-law passed under the *Planning Act* that both contain provisions relating to such matters are in effect in the municipality;
  - v) the sustainable design elements on any adjoining highway under a municipality's jurisdiction, including without limitation trees, shrubs, hedges, plantings or other ground cover, permeable paving materials, street furniture, curb ramps, waste and recycling containers and bicycle parking facilities, if an official plan and a by-law passed under subsection (2) that both contain provisions relating to such matters are in effect in the municipality; and
  - vi) facilities designed to have regard for accessibility for persons with disabilities.
- 8. As a condition to the approval of the plans referred to in Section 7, the Town may require the owner of the lands to:
  - a) Provide to the satisfaction of and at no expense to the Town any of all of the following:
    - i) Widenings of highways that abut on land designated for widenings.
    - ii) Subject to the *Public Transportation and Highway Improvement Act*, facilities to provide access to and from the land such as access ramps and curbing and traffic direction signs.
    - iii) Off-street vehicular loading and parking facilities, either covered or uncovered, access driveways, including driveways for emergency

- vehicles and the surfacing of such areas and driveways.
- iv) Walkways and walkway ramps including the surfacing thereof, and all other means of pedestrian access.
  - v) Facilities designed to have regard for accessibility for persons with disabilities.
  - vi) Facilities for the lighting including floodlighting of the land or any building or structures thereon.
  - vii) Walls, fences, hedges, trees, shrubs or other groundcover of facilities for the landscaping of the lands or the protection of adjoining lands.
  - viii) Vaults, central storage and collection areas and other facilities and enclosures for the storage of garbage and other waste material.
  - ix) Easements conveyed to the Town for the construction, maintenance or improvement of watercourses, ditches, land drainage works and sanitary sewage facilities and other public utilities of the Corporation or local board thereof on the land.
  - x) Grading or alteration in elevation or contour of the land and provision for disposal of storm, surface and waste water from the land and from buildings or structures thereon.
- b) Maintain to the satisfaction of the Town and at the sole risk and expense of the owner any or all of the facilities or works mentioned in Sections (ii), (iii), (iv), (v), (vi), (vii), (viii), (ix) and (x) of Section 8 a), including the removal of snow from access ramps and driveways, parking and loading areas, and walkways.
- c) Where an agreement is a condition of approval, enter onto one or more agreements with the Town which will deal with and ensure:
- i) provision of all the facilities, works or matters referred to in Section 8 a) including the provision of financial securities in respect of the facilities and works;
  - ii) the continued maintenance referred to in subsection 8 b); and,
  - iii) the provision and approval of the plans and drawings referred to in Section 7.
- d) Any agreement entered into under Section 8 c) shall be registered against the land to which it applies and the Town is entitled to enforce the provisions of the agreement against the owner; and subject to the provisions of the *Registry Act* and the *Land Titles Act*, any and all subsequent owners of the land.

9. Site Plan Approval shall expire one (1) year from the date of approval by Council unless, prior to the expiration of one (1) year, a building permit has been issued by the Town's Chief Building Official for the development described in the Site Plan Approval. Council may, upon the receipt of a written request from an Applicant who has been granted Site Plan Approval, grant one (1) extension of a Site Plan Approval for a period of up to one (1) year, provided such request for an extension is received prior to the expiry of the original approval.
10. That Council delegates to the Director of Planning and Development the authority to direct and approve minor amendments to the site plan control plans and agreements.
11. Penalty
  - (a) Every person who contravenes a provision of this By-law is guilty of an offence and on conviction is liable:
    - (i) On a first conviction to a fine of not more than \$25,000.00; and
    - (ii) On a subsequent conviction to a fine of not more than \$10,000.00 for each day or part thereof upon which the contravention has continued after the day on which he was first convicted.
  - (b) Where a corporation is convicted under Subsection 8(a) the maximum penalty that may be imposed is:
    - (i) On a first conviction to a fine of not more than \$50,000.00; and
    - (ii) On a subsequent conviction to a fine of not more than \$25,000.00 for each day or part thereof upon which the contravention has continued after the day on which the corporation was first convicted.
12. That this By-law may be cited as the "Midland Site Plan By-law".
13. That By-law 2005-8 is hereby repealed.
14. That this By-law shall come into full force and effect immediately upon final passage.

**BY-LAW READ A FIRST, SECOND AND THIRD TIME AND FINALLY PASSED THIS 19th DAY OF FEBRUARY, 2013.**

**THE CORPORATION OF THE TOWN OF MIDLAND**

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**MAYOR**

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**CLERK**